

OPINION

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Where Mr. Reagan and the law may meet

SO far as the law is concerned, the sending of guns to the contra rebels of Nicaragua is a different and more serious matter than the original act of selling guns to Iran.

Whether that original sale to Iran was for the purpose of obtaining release of hostages is beside the point. To barter for the release of hostages is not in itself illegal. It merely violates a Reagan principle of not paying for release of hostages. This is rhetorical policy, not law.

There is a legal angle in the sale of guns to Iran. At the time that Israel first sent American weapons to Iran with the now known knowledge of former White House security adviser Robert C. McFarlane, there were laws on the books that specifically forbade the sale of commodities worth more than \$1 million to any country engaged in state-supported terrorism. President Reagan had identified Iran as a country engaged in state-supported terrorism.

The first shipment which to our present knowledge went directly from the United States to Iran, however, was in February of this year. It followed after the issuance of a secret presidential "finding" which authorized covert arms shipments to Iran as part of a plan to establish covert contacts with Iranians. Did the presidential "finding" exempt shipments made by Israel with US knowledge before the "finding" and also shipments made directly from the US after the "finding"? That is a matter of law on which opinions differ. Only a court can decide whether the "finding" issued in secret to people acting in secret did in fact set aside the law.

But when we come to the matter of converting funds paid for American guns to Iran into guns delivered to the contras in Nicaragua, the law is clear.

On May 24, 1984, the House of Representatives voted by 267 to 154 the "Boland amendment," which specifically barred the Central Intelligence Agency from using funds to support "directly or indirectly any military or paramilitary operations by any nation, government, or organization or individual in Nicaragua."

The reference to any other nation was put in specifically because of reports that the CIA had proposed that Israel and Saudi Arabia support the contras if US funds should dry up.

That Boland amendment was in full force when all of the American arms which we now know went to Iran, either from Israel or directly from the US, were sent. Congress had clearly intended to prevent precisely what was done. There is not the slightest doubt that persons in the White House deliberately did exactly what Congress had tried to prevent.

But there we come to the tricky part. According to Attorney General Edwin Meese the Israelis first repaid the invoiced value of the weapons to the Pentagon and only then put the profit, which Mr. Meese put at "between \$10 and \$30 million," into Swiss bank accounts, from which it found its way to the contras.

But who owned that "profit"? The deal was arranged by Israel. The Meese version of the story is that Israel put the funds into secret Swiss accounts. The Israelis deny that version. They say they never touched the money. They say that Iran paid the entire amount over, presumably, to Americans.

If the Meese version is correct, then the Israelis used a profit they had made on American guns to help the contras. But if the Israeli version is correct, then

it follows that some person or persons acting on behalf of the US government received all of the Iranian funds and used part of them to do what was forbidden by the Boland amendment.

There was beyond shadow of doubt an evasion of the law that prohibited exactly what was done. Did it violate the law, or merely evade the law? Again, it may take a trial in court to decide that point. But evasion there surely was.

Then we come at last to the question of who authorized either an evasion or a breach of the law, and also who may have known about the operation that either evaded or broke a law.

In common law, to know about a breach of the law and fail to report the knowledge to appropriate authority is called "misprision of justice." It is a felony. Anyone who consciously and deliberately used American government funds to aid the contras in violation of the Boland amendment was in violation of the law. Anyone else who knew about it and failed to take action is guilty of "misprision of justice."

There is a lot of investigating to be done.